

REMARKS

Reconsideration of the present application is respectfully requested. Claim 1 has been amended. No claims have been canceled or added in this response (claim 15 is previously canceled). No new matter has been added.

Claim Rejections

Claims 1-14 and 16-25, 27-36 and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al, U.S. Patent 5,878,228 (hereinafter "Miller") in view of Maddalozzo, Jr. et al., U.S. Patent 6,105,029 (hereinafter "Maddalozzo"); Claims 26, 37, 38 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Maddalozzo and Treadwell, III et al., U.S. Patent 5,845,280 (hereinafter "Treadwell").

One of the basic requirements of a *prima facie* case of obviousness is that the prior art reference (or references when combined) must teach or suggest all of the claim limitations. MPEP §2143.

Claim 1 of the present application recites:

1. A method, comprising:
 - a) generating, at a client, a request for an action to be performed by a server to a data object, said data object being maintained by said server;
 - b) sending a request message from said client to said server over a network, wherein said request message asks for a first portion of a response to said request, **wherein said first portion is less than the full size of said response and wherein said request message further comprises:**
 - 1) a description of said action;
 - 2) a description of said data object;
 - 3) a first limit that defines the maximum size of said first portion;**

c) maintaining an understanding at a client of those portions of said first portion that have been sent by said server and received from said network by said client; and

d) issuing another request message from said client to said server for another portion of said response that has not been received at said client. (emphasis added).

Miller and Maddalozzo, do not teach or suggest the above emphasized limitation of claim 1 either individually or in combination. As explained in Applicant's request for continued examination (RCE) mailed on 10/3/2005, and also as admitted by the Examiner in the office action mailed on 11/28/2005, Miller does not teach or suggest a request message asking for a first portion of a response to the request such that the first portion is less than the full size of the response (see the office action mailed on 11/28/2005, page 3). Because Miller does not teach or suggest such a first portion, it certainly does not teach or suggest a first limit that defines the maximum size of said first portion.

Maddalozzo does not teach or suggest a first limit that defines the maximum size of said first portion. Maddalozzo discloses a method of downloading a data file, which has exactly the same copies stored on multiple sites, i.e., mirror sites. The method in Maddalozzo divides the data file into portions such that a client may download each portion simultaneously from a separate site via a separate channel. A site and channel with high transmitting speed is assigned a larger portion of the file, while a site and channel with low transmitting speed is assigned a smaller portion. According to Maddalozzo, all portions will arrive at the client at substantially the same time.

Inherently, a request sent to a site in Maddalozzo includes the description of a portion of the file to be received from that site, not a limit defining the maximum size of

that portion. The description of that portion may reflect the size of that portion, but the size is an exact size of that portion, not a maximum size of that portion.

Furthermore, there is no suggestion or motivation to combine the teachings of Miller and Maddalozzo. The Examiner alleges that the motivation to combine the teachings of Miller and Maddalozzo is that “it is desirable to have more efficient and timely access to data objects” (office action mailed on 11/28/2005, page 4). Although the method in Maddalozzo is directed to ensuring an efficient and timely access of a file or document, the method in Miller is directed to a different problem, i.e., intervening network congestion (Abstract). In addition, the two methods have different principles. The method in Miller controls intervening network congestion via source rate control, i.e., specifying the data sending rate of a server, while the method in Maddalozzo uses multiple sites and channels to download a file simultaneously. As disclosed in Maddalozzo, the size of a portion of the file assigned to each site and channel is determined by the capacity of the site and channel. That is, the capacity of each site and channel is utilized fully, rather than with a specified limit. Thus, instead of providing the suggestion or motivation to combine the two references, Maddalozzo teaches away from Miller’s teaching.

Furthermore, there is no reasonable expectation of success that the method in Maddalozzo will help to solve the issue of intervening network congestion. The two methods are solving different issues, and there is no disclosure or suggestion in Maddalozzo that the method or principle disclosed there would help to solve the problem of intervening network congestion.

Therefore, at least for the above reasons, the Examiner fails to make a *prima facie case* of obviousness under §103(a). Thus, claim 1 and all claims which depend on it are patentable over Miller and Maddalozzo.

All of the other pending independent claims include limitations similar to those discussed above and, therefore, are also not obvious based on Miller and Maddalozzo.

Dependent Claims

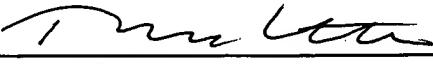
In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If any additional fee is required, please charge Deposit Account No. 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 3/28/06



Thomas C. Webster
Reg. No. 46,154

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030
(408) 720-8300